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REMARKS

The Final Office Action dated September 8, 2006 has been received and carefully noted. Claims 1-51, 54-59 and 71-73 were examined. Claims 1, 7, 21, 28, 31, 34, 35, 40-44, 47-50, 54, 55-59 and 71-73 were rejected under 35 U.S.C. § 102(b) and claims 2, 3, 8-20, 22-26, 30, 32, 33, 36-39, 45 and 46 were rejected under 35 U.S.C. § 103(a). Claims 4-6, 27, 29 and 51 were objected to as being depended upon a rejected base claim, but would be allowable if rewritten in dependent form including all the limitations of a base claim and any intervening claims.

Claims 1, 16, 18, 28, 55 and 71 are amended and entry is requested. Support for amended claims 1, 28, 55 and 71 can be found in, for example, ¶ [0019-20], ¶ [0027], ¶ [0036] and ¶ [0041] respectively. As such, no new matter has been added. Claims 60-70 remain cancelled. Claims 1-28, 30-51, 54-59, 71 and 72 remain pending in the application.

Reconsideration of the pending claims is respectfully requested in view of the following remarks.

I. Claims Rejected Under 35 U.S.C. § 102**A. Anticipation Rejections Based on Okuyama**

Claims 1, 7 and 21 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,815,741 issued to Okuyama et al. (hereinafter "*Okuyama et al.*"). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *MPEP* § 2131. Applicants respectfully submit that each and every element in independent claim 1, as amended, is not set forth in the cited reference.

In regard to claim 1, this claim, as amended, includes the elements "a binocular digital display assembly coupled to the housing and rotatable about the housing between a plurality of angular positions which can be mechanically maintained during use." *Okuyama et al.* does not teach or suggest this limitation. *Okuyama et al.* in Fig. 9 discloses an image observing apparatus that is coupled to the camera through "a flexible signal wire" that can rotate but the rotation cannot be mechanically maintained during use. Rather, the camera is held by the user, not by a

mechanical apparatus. Also, in Fig. 8, when an image observing apparatus is coupled rigidly to the camera, it cannot be rotated about the camera. As such, *Okuyama et al.* does not disclose, teach or suggest such a limitation.

Thus, *Okuyama et al.* does not include each and every element of independent claim 1. Claims 7 and 21 include all of the limitations of their respective independent claims. Therefore, *Okuyama et al.* does not anticipate these claims. Accordingly, Applicants respectfully submit that independent claim 1 and its dependent claims 7 and 21 are patentable in view of *Okuyama et al.*

B. Anticipation Rejections Based on Ohmura

Claims 28 and 40 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent Publication No. US 2004/0130645 to Ohmura et al (hereinafter "*Ohmura et al.*").

In regard to claim 28, this claim, as amended, includes the element of "the display is laterally displaced relative to the grip such that, in use and level with ground, a hand holding the grip is laterally displaced relative to a frontal face of a head of a user, the grip and digital display assembly forming an angle with the grip extending downward from the digital display assembly, and the digital display assembly extending across an eye of the user." The Examiner's interpretation of claim 28 in applying of Ohmura goes well beyond the broadest reasonable interpretation. Ohmura is designed to be hands free. Thus, there is no "hand" on what the Examiner characterizes as the "grip". While Applicant continues to contest the characterization of the temple or head strap as a grip, in any case, neither would be held by a hand during use as is required by the above-quoted language. The Examiner is not permitted to apply unreasonable interpretations in rejecting the claims, here, the Examiner's interpretation would be deemed unreasonable by any one of ordinary skill in the art. Thus, *Ohmura et al.* does not teach each of the elements of claim 28. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 28 is requested.

Claim 40 depends from independent claim 28 and incorporates the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 28, this claim is

not anticipated by *Ohmura et al.* Accordingly, reconsideration and withdrawal of the anticipation rejection of this claim based on *Ohmura et al.* is requested.

C. Anticipation Rejection Based on Blazek

Claim 28 stands rejected under 35 U.S.C. § 102 as being allegedly anticipated by U.S. Patent No. 4,864,425 issued to Blazek et al. (hereinafter "*Blazek et al.*").

In regard to claim 28, this amended claim includes the element of "a digital display assembly coupled to the housing." Applicants have been unable to discern any part of *Blazek et al.* that discloses such a housing since the Examiner "interprets the body including LCD of Blazek as the digital display assembly." See page 3, paragraph 4 of the Final Office Action. Thus, *Blazek et al.* does not teach each of the elements of claim 28. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 28 is requested.

D. Anticipation Rejections Based on Rallison

Claims 28, 47-50 and 55-59 stand rejected under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Patent No. 6,160,666 issued to Rallison et al. (hereinafter "*Rallison et al.*")

In regard to claim 28, similar to the discussion above in regard to *Ohmura et al.*, *Rallison, et al.* fails to teach or suggest a grip held by a laterally displaced hand during use. No reasonable interpretation exists by which the strap of *Rallison, et al.* could be found to be such a grip. Thus, *Rallison, et al.* does not teach each of the elements of claim 28. Accordingly, reconsideration and withdrawal of the anticipation of claim 28 is requested.

In regard to claims 47-50, these claims depend from independent claim 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 28, these claims are not anticipated by *Rallison et al.* Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

In regard to claim 55, this claim includes the elements of "the visor having a cross-dimension selected to maintain a predetermined focal distance between the first lens and an eye of the user." However, the lens 76 of *Rallison, et al.* is a "plano - convex or meniscus lens 76 for providing a substantially flat field of focus to the user." See col. 6, lines 3 and 4 of *Rallison et al.*

As disclosed in Fig 9, the lens in this system diverges the light from the image generator 74 to be reflected by the fold mirror 78. Thus, this lens does not have focal point at which the eye of the user should be positioned in relation to the lens. Further, the lens 76 is not in a direct line with the eye of the user. Rather, the user views the display through a fold mirror 78. *See Figures 8 and 9 of Rallison et al.* The Examiner argued "[t]he distance from the eye to the lens does represent a focal distance otherwise the user would not be able to clearly view the image and leave the invention unfit for its intended purpose" (*Office Action, page 5, paragraph no. 8*), ignoring the presence of the above mentioned structures between the eye and the lens and that the eye focuses on the mirror 78. *See generally Fig. 9.* Thus, the visor of *Rallison et al.* cannot be said to maintain a predetermined distance between the lens and the eye of the user as there is no direct focal relationship between the lens and the eye. Therefore, the Examiner has failed to establish that *Rallison et al.* teaches each of the elements of claim 55. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 55 is requested.

In regard to claims 56-59, these claims depend from independent claim 55 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 55, these claims are not anticipated by *Rallison et al.* Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

E. Anticipation Rejections Based on Bronson

Claims 28, 31, 34, 35 and 41-44 stand rejected under 35 U.S.C.102(e) as allegedly being anticipated by U.S. Patent No. 6,384,863 issued to Bronson (hereinafter "*Bronson*").

In regard to claim 28, this claim includes the element of a "grip and digital display assembly forming an angle." The Examiner states that "the grip and digital display assembly form an angle of about 180 degrees as seen in Figure 1." *See Office Action, page 4, paragraph no. 6.* Applicants respectfully disagree with this characterization. During patent prosecution, the words used in claims must be accorded their plain meaning unless applicant has provided a clear definition in the specification. *See MPEP § 2111.01.* According to its plain meaning, "an angle" is defined as "[t]he figure formed by two lines diverging from a common point." (The American Heritage® Dictionary of the English Language, Fourth Edition, Houghton Mifflin Company, 2004. <http://dictionary.reference.com/browse/pattern> (accessed: November 6, 2006)). The grip

and digital display assembly of *Bronson* are in a single straight line, not two lines as required by the definition and thus do not make an angle with each other. The Examiner has not indicated and the Applicants have been unable to discern any part of *Bronson* that teaches otherwise. Thus, *Bronson* does not teach each of the elements of claim 28. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 28 are requested.

In regard to claims 31, 34, 35, and 41-44, these claims depend from independent claim 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to claim 28, these claims are not anticipated by *Bronson*. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

F. Anticipation Rejection Based on Harvey

Claim 54 stands rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,597,346 issued to Harvey et al., (hereinafter "*Harvey et al.*").

In regard to claim 54, this claim, as amended, includes the element of "a pointer interface providing *absolute mapping* between one of the plurality of pointer buttons and *a location in a display* of the display assembly wherein substantially all functions of the apparatus can be accessed using the pointer interface and the execute input interface." (Emphasis added) Applicants have been unable to discern any part of *Harvey et al.* that discloses such a limitation. The Examiner has argued that *Harvey et al.* teaches a time mapping and not indicated a mapping of location. Thus, *Harvey et al.* does not teach all of the elements of claim 54. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 54 is requested.

G. Anticipation Rejection Based on Taguchi

Claims 71-73 stand rejected under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Patent No. 6,871,101 issued to Taguchi et al., (hereinafter "*Taguchi et al.*").

Claim 71, as amended, includes the elements of "a display integrated into the camera, the display having a first region to display first still image at a full display resolution; and a second region to simultaneously display a second still image at substantially reduced resolution." The recording apparatus taught by *Taguchi et al.* displays in the viewfinder *a moving picture* and a

still picture unlike the current claimed invention. Thus, *Taguchi et al.* does not teach each of the elements of claim 71. Accordingly, reconsideration and withdrawal of the anticipation rejection of this claim is requested.

In regard to claims 72 and 73, these claims depend from independent claim 71 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 71, these claims are not anticipated by *Taguchi et al.* Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

II. Claims Rejected Under 35 U.S.C. § 103

A. Obviousness Rejection based on Okuyama in view of Ohmura

Claims 2, 3 and 9 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over *Okuyama et al.* in view of *Ohmura et al.* To establish a *prima facie* case of obviousness: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference; (2) there must be a reasonable expectation of success; and (3) the references when combined must teach or suggest all of the claim limitations. *MPEP* § 2142. Applicants respectfully submit that a *prima facie* case of obviousness has not been established.

Claim 1, as amended, on which claims 2, 3 and 9 depend, includes the elements of "binocular digital display assembly coupled to the housing and rotatable about the housing between a plurality of angular positions which can be mechanically maintained during use." For the reasons set forth above in regard to independent claims 1, *Okuyama et al.* does not teach or suggest all the elements of claims 1. *Ohmura et al.* does not cure these defects of *Okuyama et al.* Applicants are unable to discern and the Examiner does not identify any section of *Ohmura et al.* where it is disclosed that the binocular digital display assembly is coupled to the housing and can be rotated about the housing in angular positions that can be mechanically maintained during use. Thus, *Okuyama et al.* does not teach or suggest all of the elements of claim 1 and *Ohmura et al.* does not cure these defects.

In regard to claims 2, 3 and 9, these claims depend from independent claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to

independent claim 1, these claims are not obvious over *Okuyama et al.* in view of *Ohmura et al.* Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.

B. Remainder of Obviousness Rejections in the Office Action

Similarly, the remainder of the rejections in the Office Action mailed September 8, 2006 is obviousness rejections of dependent claims where the primary references are *Okuyama et al.*, *Bronson*, and *Ohmura et al.* Each of the claims, namely claims 8, 10-15, 16, 17, 18, 19, 20, 22, 23-26, 30, 32, 33, 36-39, 45 and 46 depend from independent claims 1 and 28 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above, discussed in regard to the independent claims, the primary references that are relied upon by the Examiner do not teach or suggest each of the elements of these claims. Further, additional references that the Examiner seeks to combine with the primary references do not cure the defects of the primary references that have been previously identified. The Examiner does not indicate and the Applicants have been unable to discern any part of the additional references, namely U.S. Patent No. 4,326,783 issued to Kawamura et al., U.S. Patent Publication No. 2001/0004268 by Kubo et al, *Rallison et al.* or *Blazek et al.* that cure these defects of the primary references. Each of the combinations of these references fails to teach the elements of claims 1 and 28, as amended, and consequently fails to teach or suggest each of the elements of the dependent claims. Accordingly, reconsideration and withdrawal of the obviousness rejection of these dependent claims are requested.

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CONCLUSION

In view of the foregoing, it is believed that all claims now pending, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

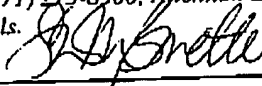
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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being transmitted via facsimile on the date shown below to the United States Patent and Trademark Office at Fax No. (571) 273-8300, Attention Examiner Anthony J. Daniels.


Susan M. Barrette11/08/06
November 8, 2006